

REMARKS

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, claim 12 has been cancelled, while the claims have been amended for clarity.

The Examiner has rejected claims 1-5 and 10 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0156819 to Van De Kerkhof et al. The Examiner has further rejected claim 12 under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicants acknowledge that the Examiner has allowed claims 6-9, 11 and 13.

In view of the cancellation of claim 12, Applicants believe that the Examiner's 35 U.S.C. 101 rejection has been rendered moot.

The Van De Kerkhof et al. publication discloses audio coding in which an input audio signal is subjected to transient detection and sinusoidal analysis in the forming of a coded audio signal.

As noted in MPEP § 2131, it is well-founded that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v.*

Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In rejecting claim 1, the Examiner states:

"Van teaches a method for encoding an audio signal where the audio signal is represented by codes separated into plurality of components, comprising the steps of:

Transforming the audio signal into transformation parameter (spectral characteristics), determining some section of the spectral representation in the parametric representation as non deterministic (noise);
generating noise parameter from the section of the parametric representation;
And

Representing the audio signal as the combination of the coded audio signal as well as the coded noise signal (Par. 0021-0026, 0032; Fig. 1)."

While Applicants do not dispute the purported teaches of Van De Kerkhof et al. as noted by the Examiner, these steps do not correspond to the subject invention as claimed in, for example, claims 1 and 10. In particular, the audio signal is coded by two separate processes, the results of which are taken together to form the encoded audio signal, i.e., the input audio signal is first subjected to coding in accordance with a predefined coding method to form a code signal. Then the input audio signal is subjected to a transforming process to form transformation parameters. The encoded audio signal is thus represented by the code signal and the transformation parameters.

It appears that the Examiner believes that the encoding method and device form a noise signal from the transformation parameters. However, Applicants submit that the Examiner is mistaken. In particular, a noise signal is generated in the

decoding process/device as claimed in claims 6 and 11. Rather, as claimed in claims 1 and 10, the transformation parameters define "at least a part of the spectro-temporal information in said audio signal", and enable "generation of a noise signal having spectro-temporal characteristics substantially similar to said audio signal" (again, which is done during decoding).

In addition, the subject invention includes "transforming the audio signal into a set of transformation parameters defining at least a part of the spectro-temporal information in said audio signal". While transient detection (of Van De Kerkhof et al.) does generate some spectral characteristics, it should be clear that these are two entirely different processes. Moreover, Van De Kerkhof et al. finds it necessary to subtract the synthesized transient signal from the audio signal.

Further, while Van De Kerkhof et al. subjects the audio signal to two processes, i.e., transient detection and sinusoidal analysis, these processes are performed serially, i.e., a transient signal component synthesized from a transient code formed by a transient analysis of the audio signal, is subtracted from the audio signal prior to it being subjected to sinusoidal analysis. In the subject invention, on the other hand, the code signal formed by a predefined coding method is performed on the input audio signal as is the transform processing of the audio signal.

In view of the above, Applicants believe that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, and as such, is patentable thereover.

Applicants believe that this application, containing claims 1-11 and 13, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by /Edward W. Goodman/
Edward W. Goodman, Reg. 28,613
Attorney
Tel.: 914-333-9611